

ORDINANCE No. 2022-33**To Enact City of Easley Ordinance Under Title IX, Chapter 99, Section 99.01,
Control Access to City-owned, Controlled, and Leased Properties**

WHEREAS, the purpose of the City of Easley's enclosed City-owned, controlled, and leased properties, including but not limited to City Hall and City Hall Annex, is to conduct legitimate public business.

WHEREAS, the First Amendment protects the right to gather information about what public officials do on public property, and specifically, a right to record matters of public interest, but "[l]ike all First Amendment protections, this right is 'subject to reasonable time, manner and place restrictions..." Sheets v. City of Punta Gorda, 415 F.Supp.3d 1115 (M.D. Fla. 2019).

WHEREAS, "the First Amendment does not guarantee access to property just because it is owned by the government..." Sheets v. City of Punta Gorda, 415 F.Supp.3d 1115 (M.D. Fla. 2019).

WHEREAS, this Ordinance seeks to prevent disruptions of the City's legitimate public business and rendering public services, along with fostering a safe and orderly environment.

WHEREAS, a City employee and citizens conducting business with the City also have a legitimate privacy interest in not being recorded without the consent of the employee or citizen.

WHEREAS, this Ordinance is not intended to prohibit citizens from coming onto City property to conduct legitimate business.

WHEREAS, this Ordinance is not intended to be a restriction on speech and is viewpoint neutral and does not target any viewpoint, ideology, or opinion.

WHEREAS, this Ordinance applies to all persons visiting the City of Easley enclosed City-owned, controlled, and leased properties, including but not limited to City Hall and City Hall Annex, to prohibit the unconsented recording of City Employees and citizens conducting legitimate business with the City.

WHEREAS, unconsented recording of and refusal to stop recording City employees and/or citizens conducting legitimate business is defined as a disruption of City business.

WHEREAS, this Ordinance has been reviewed and approved by the City Attorney; and,

NOW, THEREFORE, BE IT ORDAINED BY THE Mayor and City Council of the City of Easley, South Carolina, in Council Assembled, that effective upon the second reading of this Ordinance, the following is enacted:

Title IX, Chapter 99,**Section 99.01 Control of Access to City - owned, Controlled and Leased Property.**

- (a) Consistent with decisions of the U.S. Supreme Court, public access to areas within enclosed facilities owned, controlled, and leased by the City of Easley may be restricted depending upon whether such areas are classified as "designated public forum", "limited designated public forum", or "nonpublic forum". How areas within enclosed facilities owned, controlled, and leased by the City of Easley are classified is based upon their intended use. For example, there are certain areas which are intended primarily for the use of City employees in the conduct of their business; there are certain areas which, while primarily intended for the use of City employees in the conduct of their business, may from time to time be utilized for the convening of public meetings; there are certain limited areas which may be open to the public while engaging in legitimate business with City officers or employees; and there may be certain areas which are primarily intended for the convening of public meetings.
- (b) The Mayor is hereby authorized to manage public access to enclosed City-owned, controlled, and leased property. In the performance of such responsibilities, the Mayor shall have the authority to identify which areas are to be considered designated public forum, limited designated public forum, or nonpublic forum.
- (c) Upon the classification of areas within enclosed City-owned, controlled, and leased property, the Mayor is hereby authorized, subject to the availability of appropriated funds, to employ whatever means he/she deems necessary and appropriate to separate designated public forums from nonpublic forums, including, but not limited to the use of physical barriers and signage. The Mayor shall also have the authority to develop and implement procedures to regulate and control public access within City-owned, controlled, and leased property to provide for the security and privacy of public visitors; to provide for the security and privacy of City employees and officers; and to minimize potential disruptions to the work of City government. Any person who engages in conduct that causes disruptions to the work of City government shall be deemed to no longer be present within the City-owned, controlled, or lease property on legitimate public business.
- (d) The City Council Chambers and conference rooms in the City Hall and City Hall Annex are hereby declared to be nonpublic forums unless or until a public meeting is convened in such areas pursuant to public notice. All City employee work areas within City Hall and the City Hall Annex which are designated by appropriate signage as work areas shall be considered as nonpublic forums. Members of the public are prohibited from entering City employee work areas without being escorted by a City employee. All other areas of the City Hall and City Hall Annex are hereby designated as limited public forums and only persons who are present to engage in legitimate public business with City officers or employees shall be authorized. It shall be a violation of this Ordinance to be within a nonpublic forum or a limited public forum without authorization. Unauthorized persons found by the Mayor or his designee to be within a nonpublic forum or a limit public forum and who refuse to leave the premises upon request, shall be considered a trespasser. Law Enforcement, at its option, at the request of the City may issue a trespass warning notice for this conduct.

(e) Except within the City Council Chambers, conference rooms, and other locations in which a public meeting is being conducted pursuant to a public notice, it shall be unlawful and a violation of this Ordinance, to record video and/or sound within City-owned, controlled, and leased property, without the consent of all persons whose voice or image is being recorded. This prohibition shall not apply to any law enforcement activities. In addition to being a violation of this Ordinance, if anyone who is observed to be recording video and/or sound within City-owned, controlled, or leased property, without the consent of all persons whose voice or image is being recorded, and such person refuses to cease activity after being advised that such activity is prohibited under this Ordinance, such refusal shall be considered to be a disruption to the work of City government. Therefore, such persons shall be deemed to no longer be present within the City-owned, controlled, or leased property on legitimate public business. The Mayor and his designees are hereby authorized on behalf of the City of Easley, South Carolina, to request any person who refuses to cease the unconsented video and/or sound recording to immediately leave the premises. Any person who refuses to cease video and/or sound recording of the unconsenting person, and refuses to immediately leave the premises following the request of the Mayor or his designee, shall be considered as a trespasser. Law Enforcement, at its option, at the request of the City may issue a trespass warning notice for this conduct.

(f) The Mayor and his designees may have cause to remove any person they determine:

- (1) Acts in any manner which violates or is reasonably suspected to violate any federal, state, or local law, ordinance, rule, or regulation; or
- (2) Acts in any manner which violates any City rules or policy, including but not limited to the Facility Rules; or any directive on any sign or notice at the public property.

The Mayor and his designees are hereby authorized on behalf of the City of Easley, South Carolina, to warn persons of this prohibited activity and request such activity to cease. Law Enforcement, at its option, at the request of the City may issue a trespass warning notice for these violations of conduct.

(g) The Mayor and his designees are hereby authorized on behalf of the City of Easley, South Carolina, to warn persons who have entered into or remain in areas where they are not authorized to be, and to request such persons to depart. The Mayor and his designees, are hereby authorized to call upon Law Enforcement to treat as trespassers any persons who refuse to depart after such a request has been made. Law Enforcement, at its option, may enforce and charge any person's refusal to depart by means of Section 16-11-620 of the S.C. Code of Laws, 1976, as amended, or issue a trespass warning notice.

(h) Facility Rules. The following conduct is prohibited within the interior spaces of all City-owned, controlled, and leased buildings of the City of Easley:

- (1) Engaging in any conduct prohibited by federal, State of South Carolina, or City of Easley law.
- (2) Possessing any weapons, except as specifically permitted by law.
- (3) Smoking, chewing tobacco, use of e-cigarettes or vaping devised, or carrying any lighted or smoldering pipe, cigar, or cigarette.
- (4) Disruptive, harassing, or unsafe behavior, including conduct which interferes with City employees or City officials in the performance of their duties, or interferes with the proper use of the city facility by others.

- (5) Abusive or harassing behavior, including use or display or obscene language, gestures, or graphics.
- (6) Blocking entrances, exits, fire exits, access areas, or otherwise interfering with the provision of services or the use of City property.
- (7) Entering or remaining in nonpublic areas without authorization. Areas inside City buildings, including offices, hallways, stairways, and elevators are open to the public only to the extent necessary to attend to City business, or attending a city-authorized function, event, or activity to which the person is an invitee, or attending a duly noticed public meeting. Otherwise, such areas are deemed nonpublic areas.
- (8) Any act which could result in substantial risk of harm to persons or property.
- (9) Disrupting City business, events, or other City sponsored or authorized activities.
- (10) Leaving unattended packages, backpacks, luggage, or other personal items. Any such items are subject to immediate confiscation.
- (11) Laying down or sleeping in chairs, benches, or otherwise.
- (12) Possession of illegal drugs.
- (13) Posting or affixing to City property without permission from the City Manager, or his/her designee, any signs, leaflets, posters, flyers, pamphlets, brochures, and written, pictorial or graphic material of any kind.
- (14) Tampering with or unauthorized use of building or facility systems or devices, including electrical, plumbing, locks, doors, or cameras.
- (15) Audio and/or video recording anywhere inside of City buildings except during duly noticed public meetings, or as otherwise approved by the Mayor, or his/her designee. Except as otherwise approved by the Mayor, or his/her designee, audio and/or video recording may only be conducted within the City Council Chamber, and any room or office within which said activity has been authorized by law. Any person found to be conducting audio and/or video recording except as authorized by herein, must cease doing so immediately if any visitor, City employee, or City official expresses his/her desire not to be recorded. This rule does not apply to audio and/or video recording performed by authorized law enforcement personnel engaged in the performance of their official duties. Audio and/or video recording of public meetings must be undertaken in a quiet and orderly manner so as not to interfere with the conduct of the meeting, block the view of any person attending the public meeting, or block any aisle, row, ingress, or egress.
- (16) Remaining in a City building after posted hours of operation or after the conclusion of an authorized "after hours" public meeting or event.
- (17) Failure to cease conduct specifically prohibited in items 1 through 16 above immediately after a request by City staff to do so.
- (18) A copy of the foregoing Facility Rules shall be posted in close proximity to all public entrances of City-owned, controlled, and leased buildings of the City of Easley.

First Reading: November 14, 2022

Second Reading: December 12, 2022

Butch Womack
Butch Womack, Mayor

Attest:

Jennifer Bradley
Jennifer Bradley
City Clerk

Approved as to form and substance by the City Attorney.

BKJ
Brian K. James
Attorney at Law